

KANSAS JUVENILE JUSTICE CODE

SECTION 1

CHAPTER 38—MINORS ARTICLE 16—KANSAS JUVENILE JUSTICE CODE

Revisor's Note:

The Judicial Council published comments on a preliminary draft of this code in the June, 1981, Judicial Council Bulletin. The comments show the source or prior law for many sections in this code.

Cross References to Related Sections:

Juvenile justice authority and Kansas youth authority, see 75-7001.

Law Review and Bar Journal References:

"Changes Made by the New Juvenile Codes," Sheila Reynolds, 51 J.K.B.A. 181, 187 (1982).

"Survey of Kansas Law: Juvenile Law," Sheila Reynolds, 32 K.L.R. 371 (1984).

"Constitutional Law—Juvenile Law—The New Kansas Code for the Care of Children: Does it Meet the Constitutional Objections to Status Offense Jurisdiction?" Mary Curtis, 32 K.L.R. 484, 488 (1984).

"Juvenile Law: Juvenile Involuntarily Absent from a Waiver Hearing is Not Denied Due Process [State v. Muhammad, 237 Kan. 850, 703 P.2d 835 (1985)]," Daniel J. Gronniger, 25 W.L.J. 598, 604 (1986).

"Juvenile Law: Jurisdiction Under the Kansas Juvenile Code: Juvenile Adjudication or Adult Trial?" Carmen D. Tucker, 27 W.L.J. 394 (1988).

"A Quantitative and Descriptive Survey of Evidence Law in the Kansas Appellate Courts," Stanley D. Davis, 37 K.L.R. 715, 717 (1989).

"Juvenile Law: Prosecuting Juveniles As Adults," The Hon. Tom Malone, 60 J.K.B.A. No. 5, 39 (1991).

"Solidifying the Use of Juvenile Proceedings as Sentence Enhancement and Clarifying Second-Degree Murder," Kay Redeker, 37 W.L.J. 483 (1998).

"Students, discipline and disabilities," Carol Hall and Jonathan Paretsky, 68 J.K.B.A. No. 6, 44 (1999).

Attorney General Opinions:

Reporting of abuse and neglect of children; court services officers. 89-100.

Juvenile offenders code; new trial. 8-137.

Neither a school district nor an educational cooperative may charge fees for costs of conducting educational needs assessments ordered pursuant to 38-1514 or 38-1662. 97-44.

Municipal courts; disclosure of records of juvenile charged with tobacco ordinance infraction. 1998-36.

38-1601. History: L. 1982, ch. 182, § 59; L. 1996, ch. 229, § 2; Repealed, L. 2006 ch. 169 § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"The Worst of Both Worlds: How the Kansas Sentencing Guidelines Have Abandoned Juveniles in the Name of 'Justice'," William T. Stetzer, 35 W.L.J. 308 (1996).

"Testing the Validity of Confessions and Waivers of the Self-Incrimination Privilege in the Juvenile Court," Trey Meyer, 47 K.L.R. 1035 (1999).

"Criminal Procedure Survey of Recent Cases," Matt Corbin, Editor, 51 K.L.R. 659, 764 (2003).

Attorney General's Opinions:

Custody requirement for taking juvenile fingerprints for felony-type offenses. 85-96.

Open records; law enforcement records; jail book, standard offense report, mug shots. 87-25.

Notification of public hearing to crime victim; juvenile offenders aged 16 or over. 90-54.

Docket fees and expenses; recovery of court appointed attorney fees by county from parents of accused offender. 90-99.

County attorney and county counselor; duties; juvenile matters. 92-67.

Sexual predator act is not applicable to juvenile offenders. 94-109.

Sex offender registration act; application to juvenile offenders. 95-3.

Juveniles; collection of blood and saliva specimens; fingerprinting by KBI. 95-63.

CASE ANNOTATIONS

1. No federal or state constitutional right to jury trial under juvenile offenders code. Findlay v. State, 235 K. 462, 463, 681, P.2d 20 (1984).

2. Cited; authority to modify restitution under 38-1663 and juvenile's rights to due process upheld. In re C.A.D., 11 K.A. 2d 13, 711 P. 2d 1336 (1985).

3. Cited, provisions of 60-460(dd) (statements by children) inapplicable to juvenile offender proceedings. In re Mary P., 237 K. 456, 701 P.2d 681 (1985).

4. Juvenile proceeding is civil proceeding, protective in nature and totally divorced from criminal implications. State v. Muhammad, 237 K. 850, 854, 703 P.2d 835 (1985).

5. Cited; where defendant had no juvenile offender status because of prior adjudications (38-1602(b)(3)), court lacked jurisdiction under code. State v. Lowe, 238 K.755, 715 P.2d 404 (1986); R'vd, Lowe v. State, 242 K. 64, 744 P.2d 856 (1987).

6. Cited; deliberations and findings necessary to establish venue of dispositional hearing outside juvenile resident county (38-1605) examined. In re A.T.K., 11 K.A.2d 174, 176, 717 P.2d 528 (1986).

7. Cited; failure to advise about expungement rights (21-4619) and appeal rights (38-1681) when defendant no longer "juvenile offender" (38-1602(b)(3)) examined. Reubke v. State, 11 K.A.2d 353, 354, 720 P.2d 1141 (1986).

8. Cited; review by indigent defense services board of claims by appointed attorneys (22-4522) constitutional. Clark v. Ivy, 240 K. 195, 202, 727 P.2d 493 (1986).

9. Failure of state to proceed hereunder deprived court of jurisdiction to accept guilty plea to crime committed before 18. State v. Mayfield, 241 K. 555, 561, 738 P.2d 861 (1987).

10. Cited; legal obligation of county to provide counsel for indigent defendants charged with misdemeanors, hourly rate allowed examined. Board of Osage County Comm'rs v. Burns, 242 K. 544, 545, 747 P.2d 1338 (1998).

11. Cited; 21-3732 relating to incendiary or explosive devices as not including device known as "torpedo" examined. In re D.W.A., 244 K. 114, 765 P.2d 704 (1988).

12. The hearing referred to in 38-1652 as meaning only adjudicatory hearings for those over 15 determined. Stauffer Communications, Inc. v. Mitchell, 246 K. 492, 789 P.2d 1153 (1990).

KANSAS JUVENILE JUSTICE CODE

13. Sufficiency of evidence supporting determination to try juvenile as adult (38-1636) upheld. *State v. Hooks*, 251 K. 755, 758, 840 P.2d 483 (1992).

14. Cited; in holding crime of aiding a felon (21-3812) applies to aiding a juvenile offender. *State v. Busse*, 252 K. 695, 698, 847 P.2d 1304 (1992).

15. Cited; whether state may try juvenile prosecuted as adult on charges not previously raised in juvenile proceeding examined. *State v. Randolph*, 19 K.A.2d 730, 731, 876 P.2d 177 (1994).

16. Whether nonsexually violent juvenile adjudications are considered convictions for habitual sex offender determination purposes examined. *State v. Ward*, 20 K.A.2d 238, 244, 886 P.2d 890 (1994).

17. Whether juvenile adjudication can be used to enhance severity level of theft conviction examined. In re J.E.M., 20 K.A.2d 596, 598, 890 P.2d 364 (1995).

18. Juvenile adjudications may be considered in calculating offender's criminal history. *State v. LaMunyon*, 259 K. 54, 55, 911 P.2d 151 (1996).

19. Juvenile adjudication cannot carry criminal implications or qualify as crime; pre-1996 aggravated escape from custody section (21-3810) inapplicable. *State v. Clint L.*, 262 K. 174, 177, 936 P.2d 235 (1997).

20. Juvenile under 14 must have opportunity to consult with attorney or parent before waiving Miranda rights or statements are inadmissible. In re B.M.B., 264 K. 417, 432, 955 P.2d 1302 (1998).

21. City's special use zoning ordinance discriminated against potential group home residents based on familial status in violation of FHA (42 U.S.C. 3601 et seq.) *Keys Youth Services, Inc. v. City of Olathe, Kan.*, 52 F.Supp.2d 1284, 1306 (1999).

22. City discriminated against nonprofit corporation on basis of family status of proposed residents under federal housing statute. *Keys Youth Services, Inc. v. City of Olathe, Kan.*, 67 F.Supp.2d 1228, 1229 (1999).

23. Code provides no authority for imposition of consecutive sentences. In re W.H., 274 K. 813, 57 P.3d 1 (2002).

38-1602. History: L. 1982, ch. 182, § 60; L. 1983, ch. 140, § 29; L. 1986, ch. 162, § 1; L. 1987, ch. 112, § 37; L. 1989, ch. 95, § 9; L. 1990, ch. 146, § 3; L. 1990, ch. 150, § 6; L. 1993, ch. 291, § 220; L. 1994, ch. 270, § 4; L. 1994, ch. 337, § 2; L. 1996, ch. 229, § 40; L. 1996, ch. 229, § 41; L. 1997, ch. 156, § 44; L. 1997, ch. 156, § 45; L. 1998, ch. 171, § 8; L. 1999, ch. 156, § 11; L. 2003, ch. 72, § 2; L. 2003, ch. 158 § 3; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Revisor's Note:

Section was also amended by L. 1990, ch. 146, § 3, effective May 3, 1990, but such amendment was repealed by L. 1990, ch. 150, § 14, effective Jan. 1, 1993.

This section was also amended by L. 1993, ch. 209, § 2, but such amended version was repealed by L. 1993, ch. 291, § 283, effective July 1, 1993.

Section was amended twice in the 1998 session; see also 38-1602a.

Section was amended twice in the 1999 session, see also 38-1602b.

Section was also amended by L. 2003, ch. 29, §1, but that version was repealed by L. 2003, ch. 158, §11.

Cross References to Related Sections:

Traffic offenders 14 or over, see 8-2117.

Fish and game violators 16 or over, see 32-110c.

Law Review and Bar Journal References:

"The Kansas Hard-Forty Law," The Honorable Tom Malone, 32 W.L.J. 147, 154 (1993).

Survey of Recent Cases, 45 K.L.R. 1369, 1390 (1997).

Survey of Recent Cases, 46 K.L.R. 898 (1998).

"What Should Lawyers Know from the 2003 Kansas Legislative Session?" Whitney B. Damron, 72 J.K.B.A. No. 7, 16 (2003).

Attorney General's Opinions:

Kansas safety belt use act. 86-95.

Prosecution of juvenile traffic offenders. 89-147.

County attorney and county counselor; duties; juvenile matters. 92-67.

Detention of juvenile for acts constituting felony or misdemeanor if committed by an adult. 92-147.

Detention of juveniles in jail. 93-86.

Prosecution of juvenile traffic offenders; detainment of juvenile in jail. 94-68.

Juvenile offenders code; new offense, dispositions, commitment to youth center; custody expense; escape from custody; definition of "custody." 94-71.

Sex offender registration act; application to juvenile offenders. 95-3.

Placement or detainment of juvenile in jail; detention of juvenile in the absence of a complaint. 95-50.

Child care facilities; definitions; Shawnee County youth center. 95-58.

Juvenile; collection of blood and saliva specimens; fingerprinting by KBI. 95-63.

Confidentiality of information concerning juvenile offenders age 14 and older. 95-94.

Municipal courts; prosecution of ordinance; violation of ordinance, conduct not prohibited by statute. 97-31.

County contracts with out-of-state public agency for housing misdemeanants and juvenile offenders; conditions. 97-50.

Municipal courts; disclosure of records of juvenile charged with tobacco ordinance infraction. 1998-36.

Disqualification for admission to Kansas Law Enforcement Center. 1999-34.

Licensed child care facility may be used to house children ages 16 and 17. 1999-47.

CASE ANNOTATIONS

1. Statutory changes represented herein not retroactively applied to juvenile charged before change effective. In re Hockenbury, 9 K.A.2d 450, 453, 680 P.2d 561 (1984).

2. Cited; provisions of 60-460(dd) (statements by children) inapplicable to juvenile offender proceedings. In re Mary P., 237 K. 456, 701 P.2d 681 (1985).

3. Where defendant had no juvenile offender status because of prior adjudications, court lacked jurisdiction under code. *State v. Lowe*, 238 K. 755, 758, 715 P.2d 404 (1986); *Reversed, Lowe v. State*, 242 K. 64, 744 P.2d 856 (1987).

4. Cited; failure to advise about expungement rights (21-4619) and appeal rights (38-1681) when defendant no longer "juvenile offender" examined. *Reubke v. State*, 11 K.A.2d 353, 720 P.2d 1141 (1986).

5. Two prior adjudications as juvenile offender made in one hearing is one proceeding. *State v. Magness*, 240 K. 719, 720, 721, 722, 732 P.2d 747 (1987).

6. History of 8-2117 (juvenile traffic offenders) examined; limitations on length and places of incarceration determined. *State v. D.L.P.*, 13 K.A.2d 647, 652, 778 P.2d 851 (1989).

KANSAS JUVENILE JUSTICE CODE

7. The hearing referred to in 38-1652 as meaning only adjudicatory hearings for those over 15 determined. *Stauffer Communications, Inc. v. Mitchell*, 246 K. 492, 493, 789 P.2d 1153 (1990).

8. Driving with suspended license (8-262) held not a "traffic offense" as defined in 8-2117(d); minor over 14 years subject hereunder. *State v. Frazier*, 248 K. 963, 972, 811 P.2d 1240 (1991).

9. Cited in holding crime of aiding a felon (21-3812) applies to aiding a juvenile offender. *State v. Busse*, 252 K. 695, 697, 698, 847 P.2d 1304 (1993).

10. No specific procedure required to establish when juvenile not subject to code; state must provide sufficient evidence to exclude. *State v. Shelton*, 252 K. 319, 322, 845 P.2d 23 (1993).

11. Under facts, district court to which juvenile case was transferred was proper even if transferring court lacked subject matter jurisdiction. *In re M.K.D.*, 21 K.A.2d 541, 542, 901 P.2d 536 (1995).

12. Juvenile adjudication may be used in determining criminal history score for sentencing of adult under KSGA (21-4701 et seq.). *State v. Lanning*, 260 K. 815, 816, 925 P.2d 1145 (1996).

13. Trial court has no duty to inform juvenile of future collateral consequences that plea to adult felony entails. *In re J.C.*, 260 K.2d 851, 852, 925 P.2d 415 (1996).

14. Subsection (b)(3) applied to 17-year old notwithstanding no disposition made on second offense. *State v. Fultz*, 24 K.A.2d 242, 943 P.2d 938 (1997).

38-1602a. History: L. 1982, ch. 182, § 60; L. 1983, ch. 140, § 29; L. 1986, ch. 162, § 1; L. 1987, ch. 112, § 37; L. 1989, ch. 95, § 9; L. 1990, ch. 146, § 3; L. 1990, ch. 150, § 6; L. 1993, ch. 291, § 220; L. 1994, ch. 270, § 4; L. 1994, ch. 337, § 2; L. 1996, ch. 229, § 40; L. 1996, ch. 229, § 41; L. 1997, ch. 156, § 44; L. 1997 ch. 156, § 45; L. 1998, ch. 187, § 2; Repealed, L. 1999, ch. 116, § 51; Repealed, L. 1999, ch. 156, § 29; May 27.

38-1602b. History: L. 1982, ch. 182, § 60; L. 1983, ch. 140, § 29; L. 1986, ch. 162, § 1; L. 1987, ch. 112, § 37; L. 1989, ch. 95, § 9; L. 1990, ch. 146, § 3; L. 1990, ch. 150, § 6; L. 1993, ch. 291, § 220; L. 1994, ch. 270, § 4; L. 1994, ch. 337, § 2; L. 1996, ch. 229, § 40; L. 1996, ch. 229, § 41; L. 1997, ch. 156, § 44; L. 1997, ch. 156, § 45; L. 1998, ch. 171, § 8; L. 1999, ch. 116, § 44; Repealed, L. 2000, ch. 159, § 4; July 1.

38-1603. History: L. 1982, ch. 182, § 61; L. 1991, ch. 116, § 1; Repealed; L. 2006, ch. 169 § 140; Jan. 1, 2007.

38-1604. Jurisdiction; placement with department of social and rehabilitation services or juvenile justice authority, costs. (a) Except as provided in K.S.A. 38-1636, and amendments thereto, proceedings concerning a juvenile who appears to be a juvenile offender shall be governed by the provisions of this code.

(b) The district court shall have original jurisdiction to receive and determine proceedings under this code.

(c) When jurisdiction is acquired by the district court over an alleged juvenile offender it may continue until: (1) Sixty days after sentencing, if the juvenile is committed directly to a juvenile correctional facility; (2) the juvenile has attained the age of 23 years, if committed to the custody of the commissioner pursuant to subsection (c) of K.S.A. 38-1665, and amendments thereto, unless an adult sentence is imposed pursuant to an extended jurisdiction juvenile prosecution. If such adult sentence is imposed, jurisdiction shall continue until discharged by the court or other process for the adult sentence; (3) the juvenile has been discharged by the court; or (4) the juvenile has been discharged under the provisions of K.S.A. 38-1675, and amendments thereto.

(d) (1) If a juvenile offender, at the time of sentencing, is in an out of home placement in the custody of the secretary of social and rehabilitation services under the revised Kansas code for care of children, the sentencing court may order the continued placement of the juvenile as a child in need of care unless the offender was adjudicated for a felony or a second, or subsequent, misdemeanor. If the adjudication was for a felony or a second, or subsequent misdemeanor, the continued placement cannot be ordered unless the court finds there are compelling circumstances which require, in the best interest of the juvenile, that the placement should be continued. In considering whether compelling circumstances exist, the court shall consider the reports and recommendations of the foster placement, the contract provider, the secretary of social and rehabilitation services, the presentence investigation and all other relevant factors. If the foster placement refuses to continue the juvenile in the foster placement the court shall not order continued placement as a child in need of care.

(2) If a placement with the secretary of social and rehabilitation services is continued after sentencing, the secretary shall not be responsible for any costs of sanctions imposed under this code.

(3) If such a juvenile offender is placed in the custody of the juvenile justice authority, the secretary of social and rehabilitation services shall not be responsible for furnishing services ordered in the child in need of care proceeding during the time of the placement pursuant to the Kansas juvenile justice code. Nothing in this subsection shall preclude such juvenile offender from accessing services provided by the department of social and

KANSAS JUVENILE JUSTICE CODE

rehabilitation services or any other state agency if such juvenile is eligible for such services.

(e) The revised Kansas code for care of children shall apply when necessary to carry out the provisions of subsection (d) of K.S.A. 38-1664, and amendments thereto.

(f) The provisions of this code shall govern with respect to offenses committed on or after July 1, 1997.

History: L. 1982, ch. 182, § 62; L. 1996, ch. 229, § 42; L. 1997, ch. 156, § 46; L. 1997, ch. 156, § 47; L. 1998, ch. 187, § 3; L. 1999, ch. 156, § 12; L. 2006, ch. 200, § 93; Jan. 1, 2007.

Law Review and Bar Journal References:

“The Worst of Both Worlds: How the Kansas Sentencing Guidelines Have Abandoned Juveniles in the Name of ‘Justice’,” William T. Stetzer, 35 W.L.J. 308, 320 (1996).

“Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed,” Carla J. Stovall, 47 K.L.R. 1021 (1999).

Attorney General's Opinions:

Discharge from commitment to youth center; notification to court. 90-39.

Prosecution of juvenile traffic offenders, detainment of juvenile in jail. 94-68.

Municipal courts; prosecution of ordinance; violation of ordinance; conduct not prohibited by statute. 97-31.

Municipal courts; disclosure of records of juvenile charged with tobacco ordinance infraction. 1998-36.

CASE ANNOTATIONS

1. Statutory changes in 38-1602(b)(1) not retroactively applied to juvenile charged before change effective. In re Hockenbury, 9 K.A.2d 450, 452, 680 P.2d 561 (1984).

2. Cited failure to advise about expungement rights (21- 4619) and appeal rights (38-1681) when defendant no longer “juvenile offender” (38-1602(b)(3)) examined. Reubke v. State, 11 K.A.2d 353, 354, 720 P.2d 1141 (1986).

3. Noted in holding Kansas residency not required for unemancipated pregnant minor to seek waiver of parental notification. In re Doe, 17 K.A.2d 567, 569, 843 P.2d 735 (1992).

4. Whether state may try juvenile prosecuted as adult on charges not previously raised in juvenile proceeding examined. State v. Randolph, 19 K.A.2d 730, 735, 876 P.2d 177 (1994).

38-1605. History: L. 1982, ch. 182, § 63; L. 1996, ch. 229, § 43; L. 1999, ch. 51, § 1; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007

CASE ANNOTATIONS

1. Statute contemplates adjudicating court engaging in separate deliberation on venue; venue outside resident county only when best interests of juvenile are met. In re A.T.K., 11 K.A.2d 174, 176, 717 P.2d 528 (1986).

2. Venue proper in either county where cause of death inflicted or county where death ensued. In re J.W.S., 250 K. 65, 69, 70, 825 P.2d 125 (1992).

3. Noted in holding Kansas residency not required for unemancipated pregnant minor to seek waiver of parental notification. In re Doe, 17 K.A.2d 567, 569, 843 P.2d 735 (1992).

38-1606. History: L. 1982, ch. 182, § 64; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Attorney's General's Opinions:

Docket fees and expenses; recovery of court appointed attorney fees by county from parents of accused offender. 90-99.

Kansas juvenile offenders code; general provisions; waiver of right to an attorney. 94-53.

Neither a school district nor an educational cooperative may charge fees for costs of conducting educational needs assessments ordered pursuant to 38-1514 or 38-1662. 97-44.

CASE ANNOTATIONS

1. Court may conduct hearing without voluntary waiver of appearance by juvenile if counsel is present. State v. Muhammad, 237 K. 850, 856, 703 P.2d 835 (1985).

2. Cited; legal obligations of county to provide counsel for indigent defendants charged with misdemeanors, hourly rate allowed examined. Board of Osage County Comm’rs v. Burns, 242 K. 544, 546, 747 P.2d 1338 (1988).

38-1606a. History: L. 1994, ch. 282, § 9; L. 1996, ch. 229, § 44; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-1607. History: L. 1982, ch. 182, § 65; L. 1988, ch. 139, § 2; L. 1990, ch. 147, § 5; L. 1992, ch. 318, § 5; L. 1993, ch. 164, § 1; L. 1994, ch. 270, § 7; L. 1996, ch. 229, § 45; L. 1996, ch. 229, § 46; Repealed, L. 2006 ch. 169, § 140, Jan. 1, 2007.

Revisor's Note:

Section was amended twice in 1992 session, see also 38-1607a.

Law Review and Bar Journal References:

“Expungement: Lies That Can Hurt You in and out of Court,” Steven K. O’Hern, 27 W.L.J. 574, 578, 586, 589, 598 (1988).

“Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed,” Carla J. Stovall, 47 K.L.R. 1021 (1999).

“Kansas Sunshine Law: How Bright Does It Shine Now? The Kansas Open Meetings and Open Records Acts,” Theresa “Terry” Marcel, 72 J.K.B.A. No. 5, 28 (2003).

Attorney General's Opinions:

Records of juveniles in NCIC system. 84-126.

Confidentiality of juvenile records; disclosure pursuant to court order. 93-75.

Confidentiality of information concerning juvenile offenders age 14 and older. 95-94.

Expunged municipal court records may be released to “criminal justice agency” having legitimate need for such. 2002-14.

CASE ANNOTATIONS

1. Language “the hearing” open to public means only adjudicatory hearings for those over 15. Stauffer Communications, Inc. v. Mitchell, 246 K. 492, 494, 789 P.2d 1153 (1990).

2. Motion to exclude testimony denied; favorable treatment not exchanged for witness’ testimony; charges were matter of public record. In re J.T.M., 22 K.A.2d 673, 681, 922 P.2d 1103 (1996).

KANSAS JUVENILE JUSTICE CODE

38-1607a. History: L. 1982, ch. 182, § 65; L. 1988, ch. 139, § 2; L. 1990, ch. 147, § 5; L. 1992, ch. 286, § 14; Repealed, L. 1993, ch. 164, § 3; July 1.

38-1608. Records of law enforcement officers and agencies and municipal courts concerning certain juveniles; disclosure. (a) All records of law enforcement officers and agencies and municipal courts concerning a public offense committed or alleged to have been committed by a juvenile under 14 years of age shall be kept readily distinguishable from criminal and other records and shall not be disclosed to anyone except:

(1) The judge and members of the court staff designated by the judge of a court having the juvenile before it in any proceedings;

(2) parties to the proceedings and their attorneys;

(3) the department of social and rehabilitation services;

(4) any individual, or any officer of a public or private agency or institution, having custody of the juvenile under court order or providing educational, medical or mental health services to the juvenile or a court-approved advocate for the juvenile;

(5) any educational institution to the extent necessary to enable the educational institution to provide the safest possible environment for its pupils and employees;

(6) any educator to the extent necessary to enable the educator to protect the personal safety of the educator and the educator's pupils;

(7) law enforcement officers or county or district attorneys or their staff when necessary for the discharge of their official duties;

(8) the central repository, as defined by K.S.A. 22-4701 and amendments thereto, for use only as a part of the juvenile offender information system established under K.S.A. 38-1618 and amendments thereto;

(9) juvenile intake and assessment workers;

(10) juvenile justice authority;

(11) any other person when authorized by a court order, subject to any conditions imposed by the order; and

(12) as provided in subsection (c).

(b) The provisions of this section shall not apply to records concerning:

(1) A violation, by a person 14 or more years of age, of any provision of chapter 8 of the Kansas Statutes Annotated or of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets or the

operation of self-propelled or nonself-propelled vehicles of any kind;

(2) a violation, by a person 16 or more years of age, of any provision of chapter 32 of the Kansas Statutes Annotated; or

(3) an offense for which the juvenile is prosecuted as an adult.

(c) All records of law enforcement officers and agencies and municipal courts concerning a public offense committed or alleged to have been committed by a juvenile 14 or more years of age shall be subject to the same disclosure restrictions as the records of adults. Information identifying victims and alleged victims of sex offenses, as defined in K.S.A. chapter 21, article 35, shall not be disclosed or open to public inspection under any circumstances. Nothing in this section shall prohibit the victim or any alleged victim of any sex offense from voluntarily disclosing such victim's identity.

(d) Relevant information, reports and records shall be made available to the department of corrections upon request and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of the department of corrections.

(e) All records, reports and information obtained as a part of the juvenile intake and assessment process for juvenile offenders shall be confidential and shall not be disclosed except as provided in this section or by rules and regulations established by the commissioner of juvenile justice.

(1) Any court of record may order the disclosure of such records, reports and other information to any person or entity.

(2) The head of any juvenile intake and assessment program, certified pursuant to the commissioner of juvenile justice, may authorize disclosure of such records, reports and other information to:

(A) A person licensed to practice the healing arts who has before that person a child whom the person reasonably suspects may be abused or neglected;

(B) a court-appointed special advocate for a child, which advocate reports to the court, or an agency having the legal responsibility or authorization to care for, treat or supervise a child;

(C) a parent or other person responsible for the welfare of a child, or such person's legal representative, with protection for the identity of persons reporting and other appropriate persons;

(D) the child or the guardian ad litem for such child;

KANSAS JUVENILE JUSTICE CODE

(E) the police or other law enforcement agency;

(F) an agency charged with the responsibility of preventing or treating physical, mental or emotional abuse or neglect or sexual abuse of children, if the agency requesting the information has standards of confidentiality as strict or stricter than the requirements of the revised Kansas code for care of children or the Kansas juvenile justice code, whichever is applicable;

(G) a person who is a member of a multidisciplinary team;

(H) an agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect;

(I) any individual, or public or private agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect and specifically includes the following: Physicians, psychiatrists, nurses, nurse practitioners, psychologists, licensed social workers, child development specialists, physicians' assistants, community mental health workers, alcohol and drug abuse counselors and licensed or registered child care providers;

(J) a citizen review board;

(K) an educational institution if related to a juvenile offender that attends such educational institution; and

(L) educators who have exposure to the juvenile offender or who are responsible for pupils who have exposure to the juvenile offender.

(3) To any juvenile intake and assessment worker of another certified juvenile intake and assessment program.

History: L. 1982, ch. 182, § 66; L. 1983, ch. 140, § 30; L. 1984, ch. 157, § 2; L. 1990, ch. 147, § 6; L. 1992, ch. 318, § 6; L. 1993, ch. 164, § 2; L. 1994, ch. 270, § 8; L. 1996, ch. 229, § 47; L. 1996, ch. 229, § 48; L. 1997, ch. 156, § 48; L. 1998, ch. 171, § 9; L. 2006, ch. 200, § 94; Jan. 1, 2007.

Law Review and Bar Journal References:

"Kansas Sunshine Law: How Bright Does It Shine Now? The Kansas Open Meetings and Open Records Acts," Theresa "Terry" Marcel, 72 J.K.B.A. No. 5, 28 (2003).

Attorney General's Opinions:

Records of juveniles in NCIC system. 84-126.

Open records; law enforcement records; jail book; standard offense report, mug shots. 87-25.

Confidentiality of juvenile records; disclosure pursuant to court order. 93-75.

Confidentiality of information concerning juvenile offenders age 14 and older. 95-94.

Expunged municipal court records may be released to "criminal justice agency" having legitimate need for such. 2002-14.

38-1609. History: L. 1982, ch. 182, § 67; L. 1990, ch. 147, § 7; L. 1996, ch. 229, § 49; L. 2003, ch. 66, § 2; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"What Should Lawyers Know from the 2003 Kansas Legislative Session?" Whitney B. Damron, 72 J.K.B.A. No. 7, 16 (2003).

38-1610. History: L. 1982, ch. 182, § 68; L. 1983, ch. 140, § 31; L. 1986, ch. 129, § 2; L. 1989, ch. 96, § 2; L. 1992, ch. 312, § 14; L. 1996, ch. 229, § 50; L. 1997, ch. 156, § 49; L. 1998, ch. 131, § 7; L. 2005, ch. 168, § 3; Repealed, L. 2006, ch. 169, § 140, Jan. 1, 2007.

Cross Reference to Related Sections:

Expungement, defined, see 21-3110a.

Attorney General's Opinions:

Disqualification for admission to Kansas Law Enforcement Center. 1999-34.

Requirement for sexual offenders to register; exception for certain acts done prior to July 1, 2001. 2003-20.

38-1611. History: L. 1982, ch. 182, § 69; L. 1983, ch. 140, § 32; L. 1984, ch. 157, § 3; L. 1992, ch. 312, § 15; L. 1993, ch. 291, § 221; L. 1994, ch. 291, § 68; L. 1996, ch. 229, § 51; L. 1997, ch. 156, § 50; L. 2001, ch. 208, § 17; Repealed, L. 2006, ch. 169 § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed," Carla J. Stovall, 47 K.L.R. 1021 (1999).

"2001 Legislative Wrap-Up," Paul T. Davis, 70 J.K.B.A. No. 7, 14 (2001).

Attorney General's Opinions:

Custody requirement for taking juvenile fingerprints for felony-type offenses. 85-96.

Juveniles; collection of blood and saliva specimens; fingerprinting by KBI. 95-63.

CASE ANNOTATIONS

1. Allegation that photograph of defendant illegally taken without merit; identification not at issue, totality of circumstances considered. *State v. Orr*, 262 K. 312, 336, 940 P.2d 42 (1997).

38-1612. History: L. 1982, ch. 182, § 70; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

CASE ANNOTATIONS

1. Cited; failure to advise about expungement rights (21-4619) and appeal rights (38-1681) when defendant no longer "juvenile offender" (38-1602(b)(3)) examined. *Reubke v. State*, 11 K.A.2d 353, 354, 720 P.2d 1141 (1986).

38-1613. Docket fee and expenses. (a) *Docket fee.* The docket fee for proceedings under this code, if one is assessed as provided by this section, shall be \$25. The docket fee established in this subsection shall be the only fee collected or moneys in the

KANSAS JUVENILE JUSTICE CODE

nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Only one docket fee shall be assessed in each case.

(b) *Expenses.* The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket fee may be assessed or waived by the court conducting the initial sentencing hearing and may be assessed against the complaining witness, the person initiating the prosecution, the juvenile offender or the parent of the juvenile offender. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) *Waiver and assessment.* Expenses may be waived or assessed against the complaining witness, the person initiating the prosecution, the juvenile offender or a parent of the juvenile offender. When expenses are recovered from a party against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery.

(3) *Prohibited assessment.* Docket fees or expenses shall not be assessed against the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state.

(d) *Cases in which venue is transferred.* If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except to the extent that the sending county's proportion of the expenses is collected by the receiving court. All amounts collected shall first be applied toward payment of the docket fee.

History: L. 1982, ch. 182, § 71; L. 1992, ch. 128, § 10; L. 1996, ch. 234, § 12; L. 1997, ch. 156, § 51; L. 2006, ch. 215, § 9; July 1.

Revisor's Note:

Section was also amended by L. 1996, ch. 229, § 52, but that version was repealed by L. 1997, ch. 156, § 115.

Cross References to Related Sections:

Prosecuting attorney's training fee, see 28-170.

Law Review and Bar Journal References:

"Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed," Carla J. Stovall, 47 K.L.R. 1021 (1999).

Attorney General's Opinions:

Docket fees and expenses; recovery of court appointed attorney fees by county from parents of accused offender. 90-99.

Neither a school district nor an education cooperative may charge fees for costs of conducting educational needs assessments ordered pursuant to 38-1514 or 38-1662. 97-44.

38-1614. History: L. 1982, ch. 182, § 72; L. 1983, ch. 140, § 33; L. 1986, ch. 211, § 32; L. 1991, ch. 117, § 1; L. 1996, ch. 167, § 50; L. 1997, ch. 156, § 52; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Revisor's Note:

Section was also amended by L. 1996, ch. 229, § 53, but that version was repealed by L. 1997, ch. 156, § 115.

Law Review and Bar Journal References:

"Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed," Carla J. Stovall, 47 K.L.R. 1021 (1999).

38-1615. History: L. 1982, ch. 182, § 73, Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-1616. History: L. 1982, ch. 182, § 74; L. 1983, ch. 140, § 34; L. 1984, ch. 157, § 5; L. 1985, ch. 115, § 42; L. 1991, ch. 112, § 3; L. 1995, ch. 214, § 1; L. 1996, ch. 229, § 54; L. 1996, ch. 229, § 55; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 1997.

Attorney General's Opinions:

Detention of juvenile offenders in jail; prohibition; expense of care and custody. 92-145.

Juvenile offenders code; new offense; dispositions; commitment to youth center; custody expense, escape from custody; definition of "custody." 94-71.

Neither a school district nor an educational cooperative may charge fees for costs of conducting educational needs assessments ordered pursuant to 38-1514 or 38-1662. 97-44.

CASE ANNOTATIONS

1. Exclusionary clause in insurance contract for "international" acts of mentally ill insured examined; liability for guardian ad litem fees discussed. *Shelton Mut. Ins. Co. v. Williams*, 248 K. 17, 20, 30, 804 P.2d 1374 (1991).

2. Whether SRS or county is responsible for mental health treatment costs for indigent juvenile offender placed by court examined. *In re C.C.*, 19 K.A.2d 906, 909, 878 P.2d 865 (1994).

3. Under facts, SRS responsible for reimbursing county for cost of detention of juvenile. *In re J.L.*, 21 K.A.2d 878, 881, 908 P.2d 629 (1995).

4. County has adequate remedy hereunder, mandamus improper. *Board of Harvey County Comm'rs v. Whiteman*, 23 K.A.2d 634, 638, 639, 933 P.2d 771 (1997).

KANSAS JUVENILE JUSTICE CODE

38-1617. History: L. 1983, ch. 140, § 35; L. 1996, ch. 229, § 56; L. 1996, ch. 229, § 57; Repealed, L. 2006, ch. 169, § 140, Jan. 1, 2007.

Attorney General's Opinions:

Confidentiality of information concerning juvenile offenders age 14 and older. 95-94.

Juvenile offenders; application of Kansas offender registration act and the juvenile offender information system. 97-101.

Juvenile intake process, use of POSIT questionnaire. 2001-53.

38-1618. History: L. 1983, ch. 140, § 36; L. 1984, ch. 157, § 4; L. 1986, ch. 159, § 2; L. 1990, ch. 149, § 2; L. 1996, ch. 229, § 58; L. 1996, ch. 229, § 59; L. 1997, ch. 156, § 53; L. 1998, ch. 171, § 10; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Cross References to Related Sections:

Information on children in need of care, see 20-319.

Attorney General's Opinions:

Confidentiality of information concerning juvenile offenders age 14 and older. 95-94.

Juvenile offenders; application of Kansas offender registration act and the juvenile offender information system. 97-101.

KDHE may provide criminal history information to operators of adult care homes, but regarding juvenile records may not release specific information, only whether such juvenile record would prohibit employment. 2001-29.

Juvenile intake process, use of POSIT questionnaire. 2001-53.

38-1619, 38-1620. Reserved.

38-1621. History: L. 1982, ch. 182, § 75; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Attorney General's Opinions:

Placement or detainment of juvenile in jail; detention of juvenile in the absence of a complaint. 95-50.

CASE ANNOTATIONS

1. The hearing referred to in 38-1652 as meaning only adjudicatory hearings for those over 15 determined. *Stauffer Communications, Inc. v. Mitchell*, 246 K. 492, 493, 789 P.2d 1153 (1990).

38-1622. History: L. 1982, ch. 182, § 76; L. 1992, ch. 312, § 16; L. 1996, ch. 229, § 60; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Attorney General's Opinions:

Confidentiality of juvenile records; disclosure pursuant to court order. 93-75.

CASE ANNOTATIONS

1. In pari materia with 22-3201; amended complaint not fatally defective; no showing of abuse of discretion or substantial rights prejudiced. In re J.T.M., 22 K.A.2d 673, 676, 922 P.2d 1103 (1996).

2. No abuse of court's discretion in allowing late endorsement of witness by prosecution. *State v. Valdez*, 266 K. 774, 783, 977 P.2d 242 (1999).

3. Juvenile offender may request bill of particulars as under criminal code; burden on respondent to request if additional specificity desired. In re S.M.D., 26 K.A.2d 165, 167, 980 P.2d 1028 (1999).

38-1623. History: L. 1982, ch. 182, § 77; L. 1995, ch. 251, § 30; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-1624. History: L. 1982, ch. 182, § 78; L. 1983, ch. 140, § 37; L. 1984, ch. 157, § 6; L. 1986, ch. 156, § 2; L. 1986, ch. 162, § 3; L. 1986, ch. 163, § 1; L. 1993, ch. 291, § 275; L. 1996, ch. 229, § 61; L. 1996, ch. 229, § 62; L. 1998, ch. 187, § 4; L. 1999, ch. 156, § 13; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Cross References to Relation Sections:

Criteria for detaining juvenile in detention facility, see 38-1640.

Attorney General's Opinions

Juvenile intake process, use of POSIT questionnaire. 2001-53.

Circumstances when school official may refuse law enforcement officer's request to interview child on school premises. 2005-10.

Law Review and Bar Journal References:

"Juvenile Informants – A Necessary Evil?" Darci G. Osther, 39 W.L.J. 106 (1999).

"Testing the Validity of Confessions and Waivers of the Self-Incrimination Privilege in the Juvenile Court," Trey Meyer, 47 K.L.R. 1035 (1999).

CASE ANNOTATIONS

1. Under facts, SRS responsible for reimbursing county for cost of detention of juvenile. In re J.L., 21 K.A.2d 878, 881, 908 P.2d 629 (1995).

38-1625. History: L. 1982, ch. 182, § 79; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Attorney General's Opinions:

Custody requirement for taking juvenile fingerprints for felony-type offenses. 85-96.

CASE ANNOTATIONS

1. Censure of judge for failure to comply with provisions of statute noted. In re Long, 244 K. 719, 720, 772 P.2d 814 (1989).

38-1626. History: L. 1982, ch. 182, § 80; L. 1983, ch. 140, § 38; L. 1992, ch. 312, § 17; L. 1996, ch. 229, § 63; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Attorney General's Opinions:

Docket fees and expenses; recovery of court appointed attorney fees by county from parents of accused offender. 90-99.

Disqualification for admission to Kansas Law Enforcement Center. 1999-34.

38-1627 to 38-1631. History: L. 1982, ch. 182, § 81 to 85; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Attorney General's Opinions:

Custody requirement for taking juvenile fingerprints for felony-type offenses. 85-96.

38-1632. History: L. 1982, ch. 182, § 86; L. 1986, ch. 162, § 4; L. 1990, ch. 150, § 1; L. 1992, ch. 312, § 19; L. 1996, ch. 229, § 64; L. 1997, ch. 156, § 54; L. 2000, ch. 150, § 23; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Revisor's Note:

Section was also amended by L. 1992, ch. 312, § 18, effective July 1, 1992, but such amendment was repealed by L. 1992, ch. 312, § 42, effective Jan. 1, 1993.

KANSAS JUVENILE JUSTICE CODE

Cross References to Related Sections:

Criteria for detaining juvenile in detention facility, see 38-1640.

Attorney General's Opinions:

Confinement of juveniles in adult jails; potential liability of local officials. 90-63.

CASE ANNOTATIONS

1. The hearing referred to in 38-1652 as meaning only adjudicatory hearings for those over 15 determined. *Stauffer Communications, Inc. v. Mitchell*, 246 K. 492, 493, 789 P.2d 1153 (1990).

2. Trial court has no duty to inform juvenile of future collateral consequences that plea to adult felony entails. *In re J.C.*, 260 K. 851, 853, 925 P.2d 415 (1996).

38-1633. History: L. 1982, ch. 182, § 87; L. 1996, ch. 229, § 65; L. 1997, ch. 156, § 55; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

Survey of Recent Cases, 45 K.L.R. 1368 (1997).

"Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed," Carla J. Stovall, 47 K.L.R. 1021 (1999).

Attorney General's Opinions:

Kansas juvenile offenders code; general provisions; waiver of right to an attorney. 94-53.

CASE ANNOTATIONS

1. Cited; failure to advise about expungement rights (21-4619); and appeal rights (38-1681) when defendant no longer "juvenile offender" (38-1602(b)(3)) examined. *Reubke v. State*, 11 K.A.2d 353, 354, 720 P.2d 1141 (1986).

2. Court expressly required to inform minor of information specifically contained in statute; reliance upon defense counsel insufficient. *In re B.S.*, 15 K.A.2d 338, 339, 807 P.2d 692 (1991).

3. Cited in comparison of silent record regarding defendant's waiver of right to testify with record required for guilty plea. *Taylor v. State*, 252 K. 98, 105, 843 P.2d 682 (1992).

4. Trial court has no duty to inform juvenile of future collateral consequences that plea to adult felony entails. *In re J.C.*, 260 K. 851, 852, 925 P.2d 415 (1996).

38-1634. History: L. 1982, ch. 182, § 88; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

CASE ANNOTATIONS

1. Cited where driving with suspended license (8-262) held not a "traffic offense" under 8-2117(d); minor over 14 years subject to code. *State v. Frazier*, 248 K. 963, 970, 811 P.2d 1240 (1991).

38-1635. History: L. 1982, ch. 182, § 89; L. 1995, ch. 214, § 2; L. 1996, ch. 229, § 66; L. 1997, ch. 156, § 56; L. 2004, ch. 144, § 3; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"Kansas Diversion: Defendant's Remedies and Prosecutorial Opportunities," Joseph Brian Cox, 20 W.L.J. 344 (1981).

Attorney General's Opinions:

Disqualification for admission to Kansas Law Enforcement Center. 1999-34.

Juvenile intake process, use of POSIT questionnaire. 2001-53.

38-1636. History: L. 1982, ch. 182, § 90; L. 1986, ch. 115, § 82; L. 1990, ch. 149, § 3; L. 1991, ch. 89, § 2; L. 1992, ch. 239, § 298; L. 1993, ch. 291, § 222; L. 1996, ch. 229, § 67; L. 1997, ch. 156, § 57; L. 1997, ch. 156, § 58; L. 1998, ch. 187, § 5; L. 1999, ch. 156, § 14, Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"Juvenile Law: Jurisdiction Under the Kansas Juvenile Code: Juvenile Adjudication or Adult Trial?" Carmen D. Tucker, 27 W.L.J. 394, 399, 400, 401 (1988).

"Juvenile Law: Juvenile Involuntarily Absent from a Waiver Hearing is Not Denied Due Process [State v. Muhammad, 237 Kan. 850, 703 P.2d 835 (1985)]." Daniel J. Gronniger, 25 W.L.J. 598, 602, 604, 605, 608 (1986).

"Juvenile Law: Prosecuting Juveniles As Adults," The Hon. Tom Malone, 60 J.K.B.A. No. 5, 39 (1991).

"Juvenile Informants – A Necessary Evil?" Darci G. Osther, 39 W.L.J. 106 (1999).

"Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed," Carla J. Stovall, 47 K.L.R. 1021 (1999).

"Testing the Validity of Confessions and Waivers of the Self-Incrimination Privilege in the Juvenile Court," Trey Meyer, 47 K.L.R. 1035 (1999).

"Criminal Procedure Survey of Cases," 48 K.L.R. 895 (2000).

"Criminal Procedure Survey of Recent Cases," 50 K.L.R. 901 (2002).

"Surviving *Apprendi*: A Procedural Ideal Meets the Real World of Determinate Sentencing," Teresa L. Sittenauer, 72 J.K.B.A. No. 1, 44 (2003).

Attorney General's Opinions:

Detention of juveniles in jail. 93-86.

Prosecution of juvenile traffic offenders; detainment of juvenile in jail. 94-68.

Juvenile offenders; application of Kansas offender registration act and the juvenile offender information system. 97-101.

Municipal courts; disclosure of records of juvenile charged with tobacco ordinance infraction. 1998-36.

Disqualification for admission to Kansas Law Enforcement Center. 1999-34.

CASE ANNOTATIONS

1. Trial court required to permit prosecution to present evidence at waiver hearing which could be offered at preliminary hearing. *In re Davis*, 234 K. 766, 767, 771, 674 P.2d 1045 (1984).

2. Cited in holding no appellate review of refusal of jury trial in juvenile offender proceeding. *Findlay v. State*, 235 K. 462, 465, 681 P.2d 20 (1984).

3. Cited; provisions of 60-460(dd) (statements by children) inapplicable to juvenile offender proceedings. *In re Mary P.*, 237 K. 456, 458, 701 P.2d 681 (1985).

4. When provisions hereunder met, along with requirement of counsel, essentials of due process satisfied even though juvenile fails to appear. *State v. Muhammad*, 237 K. 850, 856, 703 P.2d 835 (1985).

5. Cited; where defendant had no juvenile offender status because of prior adjudications (38-1602(b)(3)), court lacked jurisdiction under code. *State v. Lowe*, 238 K. 755, 715 P.2d 404 (1986); *R'ved, Lowe v. State*, 242 K.64, 744 P.2d 856 (1987).

6. Eight factors in determining whether juvenile should be prosecuted as adult stated and applied. *State v. Meyers*, 245 K. 471, 473, 781 P.2d 700 (1989).

KANSAS JUVENILE JUSTICE CODE

7. Eight factors for consideration to try as an adult; prosecutorial delay in reporting juror misconduct examined. *State v. Cady*, 248 K. 743, 744, 811 P.2d 1143 (1991).

8. Factors in (e) may be given different weight and evidence of all factors not required. *State v. Irvin*, 16 K.A.2d 214, 215, 217, 219, 821 P.2d 1019 (1991).

9. Evidence supporting determination to try juvenile as adult upheld; trial on C and D felonies, admission of confession, evidence of gang membership examined. *State v. Hooks*, 251 K. 755, 840 P.2d 483 (1992).

10. Failure to find one or more of factors considered to be adverse to juvenile does not preclude prosecution as adult. *State v. Walker*, 252 K. 117, 131, 843 P.2d 203 (1992).

11. No abuse of discretion by trial court in certifying defendant for prosecution as an adult; supported by substantial evidence. *State v. Tran*, 252 K. 494, 508, 847 P.2d 680 (1993).

12. Whether state may try juvenile prosecuted as adult on charges not previously raised in juvenile proceeding examined. *State v. Randolph*, 19 K.A.2d 730, 731, 734, 738, 876 P.2d 177 (1994).

13. Trial court adequately considered and weighed factors in certifying defendant for prosecution as an adult. *State v. Brown*, 258 K. 374, 387, 904 P.2d 985 (1995).

14. Trial court considered all factors set out in subsection (e) in certifying defendant to be tried as adult. *State v. McIntyre*, 259 K. 488, 489, 497, 912 P.2d 156 (1996).

15. Substantial evidence existed to certify juvenile to be prosecuted as an adult. *State v. Kaiser*, 260 K. 235, 252, 261, 918 P.2d 629 (1996).

16. Trial court's decision to allow prosecution of minor as adult supported by substantial evidence. *State v. Vargas*, 260 K. 791, 799, 926 P.2d 223 (1996).

17. Certification as adult supported by substantial evidence; insufficiency of evidence pertaining to factors in subsection (e) not determinative. *State v. Claiborne*, 262 K. 416, 420, 940 P.2d 27 (1997).

18. Motion to certify 17-year old hereunder denied; on refiling 38-1602(b)(3) applied notwithstanding no disposition made on second offense. *State v. Fultz*, 24 K.A.2d 242, 943 P.2d 938 (1997).

19. Juvenile under 14 must have opportunity to consult with attorney or parent before waiving Miranda rights or statements are inadmissible. *In re B.M.B.*, 264 K. 417, 432, 955 P.2d 1302 (1998).

20. Trial court denial of motion to try juvenile as an adult supported by substantial evidence. *In re J.D.J.*, 266 K. 211, 217, 220, 967 P.2d 751 (1998).

21. Under facts, juvenile who pled no contest as an adult is not entitled to sentencing under juvenile code. *Melton v. State*, 25 K.A.2d 641, 642, 967 P.2d 356 (1998).

22. Substantial evidence existed to authorize prosecution as adult under (f) notwithstanding judge's failure to mention statutory factors of (e). *State v. Avalos*, 266 K. 517, 519, 521, 974 P.2d 97 (1999).

23. In determining whether to certify a juvenile as an adult, court not required to give equal weight to factors in subsection (e). *State v. Valdez*, 266 K. 774, 783, 977 P.2d 242 (1999).

24. Sufficient evidence for court to conclude defendant should be tried as an adult. *State v. Stephens*, 266 K. 886, 892, 975 P.2d 801 (1999).

25. No error in prosecuting 14 years old defendant as adult for rape but upon conviction of lesser included offense of attempted rape he is to be sentenced as a juvenile offender. *State v. Perez*,

267 K. 543, 546, 987 P.2d 1055 (1999).

26. Respondent is deemed adjudicated as a juvenile offender when conviction is affirmed but order authorizing prosecution as an adult is reversed. *State v. Smith*, 268 K. 222, 244, 993 P.2d 1213 (1999).

27. In extended juvenile prosecution, court not required to consider factors under subsection (b) if respondent stipulates presumption applies and respondent cannot overcome presumption. *In re S.M.D.*, 26 K.A.2d 165, 169, 980 P.2d 1028 (1999).

28. Failure of district court to adopt local rules for extended juvenile proceedings not reversible error absent showing of prejudice by absence of such rules. *In re S.M.D.*, 26 K.A.2d 165, 170, 980 P.2d 1028 (1999).

29. In hearing to determine whether juvenile is to be tried as an adult, juvenile may refuse court-ordered psychological examination; where juvenile consents, no miranda warning required provided information obtained not introduced at trial or used for sentencing. *State v. Davis*, 268 K. 661, 998 P.2d 1127 (2000).

30. Stipulation to facts contained in state's motion to prosecute as adult constituted a rough approximation of factors to be considered by court. *State v. Luna*, 28 K.A.2d 148, 12 P.3d 911 (2000).

31. Factors in section concerning certification of juvenile to be tried as adult must be considered, but no requirement court mention factors used or that evidence on every factor be presented. *State v. Medrano*, 271 K. 504, 23 P.3d 836 (2001).

32. Sufficient evidence to support court's determination defendant should be tried as adult; issue of waiver of jury trial not before appellate courts as never raised at trial. *State v. Luna*, 271 K. 573, 23 P.3d 883 (2001).

33. No constitutional violations for prosecuting minor as adult. *State v. Coleman*, 271 K. 733, 26 P.3d 613 (2001).

34. Presumption in 38-1636(a)(2) does not violate due process rights of juvenile. *State v. Jones*, 273 K. 756, 47 P.3d 783 (2002).

35. Court's certification of defendant for trial as adult affirmed. *State v. Hartpence*, 30 K.A.2d 486, 42 P.3d 1197 (2002).

36. Failure to advise defendant of specifics of section does not bring determination to prosecute defendant as adult within requirement of Apprendi. *State v. Williams*, 277 K. 338, 85 P.3d 697 (2004).

37. Certification proceedings of juveniles to be tried as adults outside dictates of Apprendi. *State v. Mays*, 277 K. 359, 85 P.3d 1208 (2004).

38-1637. History: L. 1982, ch. 182, § 91; L. 1983, ch. 140, § 39; L. 1986, ch. 299, § 5; L. 1992, ch. 312, § 20; L. 1996, ch. 229, § 68; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-1638, 38-1639. History: L. 1982, ch. 182, § § 92, 93; L. 1996, ch. 229, § § 69, 70; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-1640. History: L. 1986, ch. 162, § 2; L. 1996, ch. 185, § 4; L. 1997, ch. 156, § 59; L. 1998, ch. 187, § 6; L. 1999, ch. 156 § 15; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

KANSAS JUVENILE JUSTICE CODE

Revisor's Note:

Section was also amended by L. 1996, ch. 229, § 71, but that version was repealed by L. 1997, ch. 156, § 115.

38-1641. History: L. 1994, ch. 282, § 6; L. 1994, ch. 337, § 4; L. 1996, ch. 229, § 72; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-1642 to 38-1650. Reserved.

38-1651. History: L. 1982, ch. 182, § 94; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"Criminal Procedure Survey of Recent Cases," 50 K.L.R. 901 (2002).

38-1652. History: L. 1982, ch. 182, § 95; L. 1993, ch. 166, § 5; L. 1995, ch. 243, § 1; L. 1996, ch. 229, § 73; L. 1997, ch. 156, § 60; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed," Carla J. Stovall, 47 K.L.R. 1021 (1999).

Attorney General's Opinions:

Notification of public hearing to crime victim; juvenile offenders aged 16 or over. 90-54.

Municipal courts; disclosure of records of juvenile charged with tobacco ordinance infraction. 1998-36.

CASE ANNOTATIONS

1. Language "the hearing" open to public means only adjudicatory hearings for those over 15. Stauffer Communications, Inc. v. Mitchell, 246 K. 492, 498, 789 P.2d 1153 (1990).

38-1653. History: L. 1982, ch. 182, § 96; L. 1996, ch. 229, § 74; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"The New Kansas Law Regarding Admissibility of Child-Victim Hearsay Statements," G. Joseph Pierron, 52 J.K.B.A. 88, 92 (1983).

CASE ANNOTATIONS

1. Cited provisions of 60-460(dd) (statements by children) inapplicable to juvenile offender proceedings. In re Mary P., 237 K. 456, 457, 701 P.2d 681 (1985).

2. Eight factors in determining whether juvenile should be prosecuted as adult stated and applied. State v. Meyers, 245 K. 471, 473, 781 P.2d 700 (1989).

3. Testimony by expert based partially on defendant's statements in psychiatric evaluation held not hearsay. State v. Kaiser, 260 K. 235, 258, 918 P.2d 629 (1996).

4. Trial court had no jurisdiction to compel prosecuting witness to produce medical records; respondents should have issued subpoena. In re J.T.M., 22 K.A.2d 673, 678, 922 P.2d 1103 (1996).

38-1654. History: L. 1982, ch. 182, § 97; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"The Worst of Both Worlds: How the Kansas Sentencing Guidelines Have Abandoned Juveniles in the Name of 'Justice'," William T. Stetzer, 35 W.L.J. 308, 315 (1996).

CASE ANNOTATIONS

1. State sustained burden under juvenile code of establishing utterance of terroristic threat. Findlay v. State, 235 K. 462, 466, 681 P.2d 20 (1984).

38-1655. History: L. 1982, ch. 182, § 98; L. 1995, ch. 251, § 31; L. 1996, ch. 229, § 75; L. 1999, ch. 116, § 45; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Cross References to Related Sections:

Report of certain adjudications, see 8-253.

Law Review and Bar Journal References:

"The Kansas Hard-Forty Law," The Honorable Tom Malone, 32 W.L.J. 147, 154 (1993).

"Crime and Punishment in an Alien Nation: Representing Noncitizen Defendants," David K. Link, J.K.T.L.A. Vol. 25, No. 4, 6, 12 (2002).

Attorney General's Opinions:

Disqualification for admission to Kansas Law Enforcement Center. 1999-34.

CASE ANNOTATIONS

1. Cited; deliberations and findings necessary to establish venue of dispositional hearing outside juvenile resident county (38-1605) examined. In re A.T.K., 11 K.A.2d 174, 176, 717 P.2d 528 (1986).

38-1656. History: L. 1982, ch. 182, § 99; L. 1996, ch. 229, § 76; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"The Worst of Both Worlds: How the Kansas Sentencing Guidelines Have Abandoned Juveniles in the Name of 'Justice'," William T. Stetzer, 35 W.L.J. 308, 315 (1996).

CASE ANNOTATIONS

1. Jury trial in juvenile offender proceeding at option of court with no rights of state or respondent nor appellate review. Findlay v. State, 235 K. 462, 466, 681 P.2d 20 (1984).

2. No right to jury trial under code; judge has discretion to order jury trial. In re L.A., 270 K. 879, 19 P.3d 172 (2001).

38-1657, 38-1658. History: L. 1986, ch. 119, § 5, 6; L. 1996, ch. 229, § 77, 78; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-1659, 38-1660. Reserved.

38-1661. History: L. 1982, ch. 182, § 100; L. 1990, ch. 147, § 8; L. 1996, ch. 229, § 79; L. 1997, ch. 156, § 61; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

CASE ANNOTATIONS

1. Language "the hearing" open to public means only adjudicatory hearings for those over 15. Stauffer Communications, Inc. v. Mitchell, 246 K. 492, 495, 789 P.2d 1153 (1990).

2. Noted in holding Kansas residency not required for unemancipated pregnant minor to seek waiver of parental notification. In re Doe, 17 K.A.2d 567, 569, 843 P.2d 735 (1992).

KANSAS JUVENILE JUSTICE CODE

38-1662. History: L. 1982, ch. 182, § 101; L. 1990, ch. 147, § 9; L. 1991, ch. 113, § 2; L. 1996, ch. 229, § 80; L. 1997, ch. 156, § 62; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Attorney General's Opinions:

Neither a school district nor an educational cooperative may charge fees for costs of conducting educational needs assessments ordered pursuant to 38-1514 or 38-1662. 97-44.

38-1663. History: L. 1982, ch. 182, § 102; L. 1987, ch. 154, § 1; L. 1989, ch. 95, § 10; L. 1990, ch. 48, § 1; L. 1992, ch. 312, § 21; L. 1993, ch. 291, § 223; L. 1994, ch. 270, § 5; L. 1994, ch. 337, § 3; L. 1996, ch. 229, § 81; L. 1997, ch. 156, § 63; L. 1998, ch. 187, § 7; L. 1998, ch. 187, § 8; L. 1999, ch. 156, § 16; L. 2000, ch. 150, § 24; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Revisor's Note:

Section was amended twice in 1989 session, see also 38-1663a.

Section was amended twice in 1990 session, see also 38-1663b.

This section was also amended by L. 1992, ch. 239, § 280, but such amended version was repealed by L. 1993, ch. 291, § 283, effective July 1, 1993.

Section was also amended by L. 1997, ch. 156, § 64, but that version was repealed by L. 1998, ch. 187, § 19.

Cross References to Related Sections:

Departure sentences, see 38-16,132.

Law Review and Bar Journal References:

"Juvenile Law: Jurisdiction Under the Kansas Juvenile Code: Juvenile Adjudication or Adult Trial?" Carmen D. Tucker, 27 W.L.J. 394, 402 (1988).

"Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed," Carla J. Stovall, 47 K.L.R. 1021 (1999).

"Criminal Procedure Survey of Cases," 48 K.L.R. 895 (2000).

Attorney General's Opinions:

Sentencing; authorized dispositions; sentencing; probation; costs; home rule powers. 92-90.

Prosecution of juvenile traffic offenders; detainment of juvenile in jail. 94-68.

Juvenile offenders code, new offense; dispositions; commitment to youth center; custody expense; escape from custody; definition of "custody." 94-71.

Neither a school district nor an educational cooperative may charge fees for costs of conducting educational needs assessments order pursuant to 38-1514 or 38-1662. 97-44.

Discretion of court to suspend mandatory minimum fine for person under 21 possessing alcoholic liquor or cereal malt beverages. 1999-12.

Requirement of persons confined or under court supervision to give blood and saliva specimens for inclusion in FBI's DNA index. 2001-45.

CASE ANNOTATIONS

1. Authority to modify restitution exists; right to examine evidence, cross-examine and confront accuser also exists. In re C.A.D., 22 K.A.2d 13, 18, 22, 711 P.2d 1336 (1985).

2. Cited; deliberations and findings necessary to establish venue of dispositional hearing outside juvenile resident county (38-1605) examined. In re A.T.K., 11 K.A.2d 174, 177, 717 P.2d 528 (1986).

3. Exclusionary clause in insurance contract for intentional acts of mentally ill insured examined; "intentional" construed.

Shelter Mut. Ins. Co. v. Williams, 248 K. 17, 19, 804 P.2d 1374 (1991).

4. Cited where driving with suspended license (8-262) held not a "traffic offense" under 8-2117(d); minor over 14 years subject to code. State v. Frazier, 248 K. 963, 970, 811 P.2d 1240 (1991).

5. Cited in holding crime of aiding a felon (21-3812) applies to aiding a juvenile offender. State v. Busse, 252 K. 695, 698, 847 P.2d 1304 (1992).

6. Juvenile subject to jurisdiction of court until completion of community based program. In re Habeas Corpus Petition of S.J.K., 32 K.A.2d 1067, 94 P.3d 734 (2004).

38-1663a. History: L. 1982, ch. 182, § 102; L. 1987, ch. 154, § 1; L. 1989, ch. 92, § 29; Repealed, L. 1990, ch. 151, § 2, July 1.

38-1663b. History: L. 1982, ch. 182, § 102; L. 1987, ch. 154, § 1; L. 1989, ch. 95, § 10; L. 1990, ch. 151, § 1; Repealed, L. 1992, ch. 312, § 41; Repealed, L. 1992, ch. 239, § 303; July 1, 1993.

38-1664. Juvenile offenders placed in custody of commissioner, considerations by court; notification of court; reports by commissioner and foster parents; permanency hearing. (a) Prior to placing a juvenile offender in the custody of the commissioner and recommending out-of-home placement, the court shall consider and determine that, where consistent with the need for protection of the community:

(1) Reasonable efforts have been made to maintain the family unit and prevent unnecessary removal of a juvenile offender from the juvenile offender's home, as long as the juvenile offender's safety is assured, or an emergency exists which threatens the safety of the juvenile offender. If the juvenile offender is in the custody of the secretary of social and rehabilitation services under the Kansas code for the care of children, the secretary shall prepare a report for the court documenting such reasonable efforts. If the juvenile offender is in the custody of the commissioner, the commissioner shall prepare a report for the court documenting such reasonable efforts. Otherwise, the predisposition investigation writer shall prepare a report to the court documenting such reasonable efforts. Reasonable efforts are not required prior to removal if the court finds:

(A) A court of competent jurisdiction has determined that the parent has subjected the juvenile offender to aggravated circumstances;

(B) a court of competent jurisdiction has determined that the parent has been convicted of a murder of another child of the parent; voluntary

KANSAS JUVENILE JUSTICE CODE

manslaughter of another child of the parent; aiding or abetting, attempting, conspiring or soliciting to commit such a murder of such a voluntary manslaughter; or a felony assault that results in serious bodily injury to the juvenile offender or another child of the parent; or

(C) the parental rights of the parent with respect to a sibling has been terminated involuntarily.

Such findings must be included in the court's order.

(2) The juvenile offender's removal from the home must be the result of a judicial determination to the effect that continuation of residence in the home would be contrary to the welfare, or that placement would be in the best interests, of the juvenile offender. The contrary to the welfare determination must be made in the first court ruling that sanctions the removal of a juvenile offender from the home.

(3) A permanency plan must be presented at disposition or within 30 days thereafter. If a permanency plan is in place under a child in need of care proceeding, the court may adopt the plan under the present proceeding. If the juvenile offender is placed in the custody of the commissioner, the commissioner shall prepare the plan. The plan must comply with the requirements of K.S.A. 2006 Supp. 38-2263, and amendments thereto. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan.

(4) The court must determine that reasonable efforts have been made and what progress has been made to finalize the permanency plan that is in effect within 12 months of the date the juvenile offender is considered to have entered foster care and at least once every 12 months thereafter while the juvenile offender is in foster care.

(5) The court must reflect reasonable efforts and contrary to the welfare findings in orders awarding custody to the commissioner temporarily, at sentencing and at modification hearings. If the juvenile offender is placed in the custody of the commissioner, the court shall provide the commissioner with a written copy of any orders entered upon making the order for the purpose of documenting the orders.

(6) If the juvenile offender is placed in the commissioner's custody, the commissioner shall document in writing the reasonable efforts that have been made and the progress made to finalize the permanency plan, before each hearing reviewing the

plan.

(b) When a juvenile offender has been placed in the custody of the commissioner, the commissioner shall notify the court in writing of the initial placement of the juvenile offender as soon as the placement has been accomplished. The court shall have no power to direct a specific placement by the commissioner, but may make recommendations to the commissioner. The commissioner may place the juvenile offender in an institution operated by the commissioner, a youth residential facility or a community mental health center. If the court has recommended an out-of-home placement, the commissioner may not return the juvenile offender to the home from which removed without first notifying the court of the plan.

(c) During the time a juvenile offender remains in the custody of the commissioner, the commissioner shall report to the court at least each six months as to the current living arrangement and social and mental development of the juvenile offender and document in writing the reasonable efforts that have been made and the progress made to finalize the permanency plan.

(d) If the juvenile offender is placed outside the juvenile offender's home, a permanency hearing shall be held not more than 12 months after the juvenile offender is placed outside the juvenile offender's home and, if reintegration is a viable alternative, every 12 months thereafter. The court may appoint a guardian ad litem to represent the juvenile offender at the permanency hearing. Juvenile offenders who have been in extended out of home placement shall be provided a permanency hearing within 30 days of a request from the commissioner. If reintegration is not a viable alternative and either adoption or permanent guardianship might be in the best interests of the juvenile offender the county or district attorney shall file a petition alleging the juvenile is a child in need of care and requesting termination of parental rights or the appointment of a permanent guardian pursuant to the revised Kansas code for care of children. If the juvenile offender is placed in foster care, the foster parent or parents shall submit to the court, at least every six months, a report in regard to the juvenile offender's adjustment, progress and condition. The juvenile justice authority shall notify the foster parent or parents of the foster parents' or parent's duty to submit such report, on a form provided by the juvenile justice authority, at least two weeks

KANSAS JUVENILE JUSTICE CODE

prior to the date when the report is due, and the name of the judge and the address of the court to which the report is to be submitted. Such report shall be confidential and shall only be reviewed by the court and the child's attorney.

(e) The report made by foster parents and provided by the commissioner of juvenile justice, pursuant to this section, shall be in substantially the following form:

REPORT FROM FOSTER PARENTS CONFIDENTIAL

Child's Name	Current Address
Parent's Name	Foster Parents
Primary Social Worker	

Please circle the word which best describes the child's progress

- Child's adjustment in the home
excellent good satisfactory needs improvement
- Child's interaction with foster parents and family members
excellent good satisfactory needs improvement
- Child's interaction with others
excellent good satisfactory needs improvement
- Child's respect for property
excellent good satisfactory needs improvement
- Physical and emotional condition of the child
excellent good satisfactory needs improvement
- Social worker's interaction with the child and foster family
excellent good satisfactory needs improvement
- School status of child

School	Grade
Grades Good ____ Fair ____	Poor ____
Attendance Good ____ Fair ____	Poor ____
Behavior Good ____ Fair ____	Poor ____

- If visitation with parents has occurred, describe the frequency of visits, with whom, supervised or unsupervised, and any significant events which have occurred. _____

- Your opinion regarding the overall adjustment, progress and condition of the child: _____

- Do you have any special concerns or comments with regard to the child not address by this form? Please specify. _____

History: L. 1982, ch. 182, § 103; L. 1989, ch. 122, § 2; L. 1990, ch. 150, § 8; L. 1994, ch. 324, § 1; L. 1996, ch. 229, § 82; L. 1999, ch. 156, § 17; L. 2000, ch. 150, § 25; L. 2006 ch. 200, § 95; Jan. 1, 2007.

Cross References to Related Sections:

Form of report, 38-1569.

Attorney General's Opinions:

Juvenile offenders code; new offense; dispositions; commitment to youth center; custody expense, escape from custody; definition of "custody." 94-71.

CASE ANNOTATIONS

- Whether court has power to dictate a specific placement of child in SRS custody examined. In re C.C., 19 K.A.2d 906, 909, 878 P.2d 865 (1994).

38-1665. History: L. 1982, ch. 182, § 104; L. 1992, ch. 312, § 22; L. 1996, ch. 229, § 83; L. 2003, ch. 66, § 1; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

CASE ANNOTATIONS

- Within 60 days after commitment, sentencing court can enter any other appropriate sentence, including one below statutory mandatory minimum. In re T.A.L., 28 K.A.2d 396, 15 P.3d 850 (2000).

38-1666. History: L. 1982, ch. 182, § 105; L. 1992, ch. 312, § 23; L. 1996, ch. 229, § 84; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

CASE ANNOTATIONS

- Cited; authority to modify restitution under 38-1663 and juvenile's right to due process upheld. In re C.A.D., 11 K.A.2d 13, 15, 711 P. 2d 1336 (1985).
- Cited; deliberations and findings necessary to establish venue of dispositional hearing outside juvenile resident county (38-1605) examined. In re A.T.K., 11 K.A.2d 174, 177, 717 P.2d 528 (1986).
- Juvenile subject to jurisdiction of court until completion of community based program. In re Habeas Corpus Petition of S.J.K. 32 K.A. 2d 1067, 94 P.3d 734 (2004).

38-1667. History: L. 1982, ch. 182, § 106; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-1668. History: L. 1994, ch. 282, § 7; L. 1994, ch. 337, § 5; L. 1996, ch. 229, § 85; L. 1997, ch. 156, § 65; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-1669, 38-1670. Reserved.

38-1671. History: L. 1982, ch. 182, § 107; L. 1990, ch. 150, § 9; L. 1994, ch. 282, § 1; L. 1996, ch. 229, § 86; L. 1997, ch. 156, § 66; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Attorney General's Opinions:

Juvenile offenders code; new offense; dispositions; commitment to youth center; custody expense; escape from custody; definition of "custody." 94-71.

38-1672. History: L. 1982, ch. 182, § 108; L. 1996, ch. 229, § 87; Repealed, L. 1997, ch. 156, § 115; July 1.

38-1673. History: L. 1982, ch. 182, § 109; L. 1983, ch. 140, § 40; L. 1990, ch. 149, § 4; L. 1994, ch. 282, § 2; L. 1996, ch. 229, § 88; L. 1997, ch. 156, § 67; L. 1999, ch. 156, § 18; L. 2000, ch. 150, § 26; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Cross References to Related Sections:

Discharge or release of juvenile offenders, school district involvement, see 38-1677.

KANSAS JUVENILE JUSTICE CODE

Attorney General's Opinions:

Discharge from commitment to youth center; notification to court. 90-39.

38-1674. History: L. 1982, ch. 182, § 110; L. 1996, ch. 229, § 89; L. 1997, ch. 156, § 68; L. 1997, ch. 156, § 69; L. 2000, ch. 150, § 27; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-1675. History: L. 1982, ch. 182, § 111; L. 1990, ch. 149, § 5; L. 1994, ch. 282, § 3; L. 1996, ch. 229, § 90; L. 1997, ch. 156, § 70; L. 1997, ch. 156, § 71; L. 2000, ch. 150, § 28; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Cross References to Related Sections:

Discharge or release of juvenile offenders, school district involvement, see 38-1677.

Attorney General's Opinions:

Discharge from commitment to youth center; notification to court. 90-39.

CASE ANNOTATIONS

1. Misstatement by court concerning defendant's potential for custody after 21 not reversible error in juvenile jurisdiction waiver. *State v. Kaiser*, 260 K. 235, 260, 918 P.2d 629 (1996).

38-1676. History: L. 1990, ch. 149, § 12; L. 1994, ch. 282, § 4; L. 1996, ch. 229, § 91; L. 1997, ch. 156, § 72; L. 2000, ch. 150, § 29; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Cross References to Related Sections:

Discharge or release of juvenile offenders; school district involvement, see 38-1677.

CASE ANNOTATIONS

1. Misstatement by court concerning defendant's potential for custody after 21 not reversible error in juvenile jurisdiction waiver. *State v. Kaiser*, 260 K. 235, 261, 918 P.2d 629 (1996).

38-1677. History: L. 1994, ch. 282, § 12; L. 1996, ch. 229, § 92; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Cross References to Related Sections:

Discharge or release of juvenile offenders; notice to school district, see 38-1673; 38-1675; and 38-1676.

38-1678 to 38-1680. Reserved.

38-1681. History: L. 1982, ch. 182, § 112; L. 1996, ch. 229, § 93; L. 1997, ch. 156, § 73; L. 1997, ch. 156, § 74; L. 1999, ch. 156, § 19; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Cross References to Related Sections:

Report of disposition of certain appeals, see 8-253.

Law Review and Bar Journal References:

"Juvenile Law: Juvenile Involuntarily Absent from a Waiver Hearing is Not Denied Due Process [*State v. Muhammad*, 237 Kan. 850, 703 P.2d 835 (1985)]," Daniel J. Gronniger, 25 W.L.J. 598, 602, 605 (1986).

"Kansas Appellate Advocacy: An Inside View of Common-Sense Strategy," Patrick Hughes, 66 J.K.B.A. No. 2, 26 (1997).

CASE ANNOTATIONS

1. Cited in holding no appellate review of refusal of jury trial in juvenile offender proceeding. *Findlay v. State*, 235 K. 462, 465, 681 P.2d 20 (1984).

2. Noted; proceedings waiving juvenile jurisdiction under 38-1601 et seq. in juvenile's absence discussed. *State v. Muhammad*, 237 K. 850, 851, 703 P.2d 835 (1985).

3. No error in failing to advise on appeal rights when defendant no longer "juvenile offender" (38-1602(b)(3)) examined. *Reubke v. State*, 11 K.A.2d 353, 355, 720 P.2d 1141 (1986).

4. Notice of appeal timely filed after adjudication while none filed after disposition reaches merits of adjudication. *In re M.O.*, 13 K.A.2d 381, 382, 770 P.2d 856 (1989).

5. Cited where driving with suspended license (8-262) held not a "traffic offense" under 8-2117(d); minor over 14 years subject to code. *State v. Frazier*, 248 K. 963, 967, 811 P.2d 1240 (1991).

6. Adjudication and disposition are separate legal events; 38-1602(b)(3) applied to 17-year old notwithstanding no disposition made on second offense. *State v. Fultz*, 24 K.A.2d 242, 246, 943 P.2d 938 (1997).

7. Substantial evidence existed to authorize prosecution as adult under 38-1636(f) notwithstanding judge's failure to mention statutory factors of 38-1636(e). *State v. Avalos*, 266 K. 517, 518, 974 P.2d 97 (1999).

8. Respondent is deemed adjudicated as a juvenile offender when conviction is affirmed but order authorizing prosecution as an adult is reversed. *State v. Smith*, 268 K. 222, 244, 993 P.2d 1213 (1999).

9. Section gives defendant right to appeal adjudication as adult even though defendant entered plea of nolo contendere. *State v. Ransom*, 268 K. 653, 999 P.2d 272 (2000).

38-1682. History: L. 1982, ch. 182, § 113; L. 1983, ch. 140, § 41; L. 1996, ch. 229, § 94; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

"Juvenile Law: Jurisdiction Under the Kansas Juvenile Code: Juvenile Adjudication or Adult Trial?" Carmen D. Tucker, 27 W.L.J. 394, 399 (1988).

CASE ANNOTATIONS

1. Cited in holding no appellate review of refusal of jury trial in juvenile offender proceeding. *Findlay v. State*, 235 K. 462, 465, 681 P.2d 20 (1984).

2. Appeal by prosecution under juvenile offenders code of dismissal untimely filed. *In re J.D.B.*, 259 K. 872, 874, 915 P.2d 69 (1996).

3. Appellate court has no jurisdiction under code of criminal procedure to consider interlocutory appeal under the juvenile offenders code. *In re R.L.C.*, 267 K. 210, 978 P.2d 285 (1999).

4. Prosecution appeal of imposition of sanctions dismissal based on untimely filing upheld. *In re D.G.K.*, 26 K.A.2d 884, 886, 995 P.2d 413 (2000).

38-1683. History: L. 1982, ch. 182, § 114; L. 1986, ch. 115, § 83; L. 1994, ch. 282, § 10; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

CASE ANNOTATIONS

1. Provision that appeal to district court from multistate court to be heard de novo in 30 days is directory, not mandatory; statute is not intended to be codification of right to speedy trial. *In re T.K.*, 11 K.A.2d 632, 634, 635, 636, 637, 731 P.2d 887 (1987).

KANSAS JUVENILE JUSTICE CODE

38-1684. History: L. 1982, ch. 182, § 115; Repealed, L. 2006, ch. 169 § 140; Jan. 1, 2007.

38-1685. History: L. 1982, ch. 182, § 116, Repealed, L. 2006, ch. 169 § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

“Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed,” Carla J. Stovall, 47 K.L.R. 1021 (1999).

Attorney General's Opinions:

Neither a school district nor an educational cooperative may charge fees for costs of conducting educational needs assessments ordered pursuant to 38-1514 or 38-1662. 97-44.

CASE ANNOTATIONS

1. Right of indigent parent to counsel under 38-1505 held to be not wholly dependent on request for same. In re S.R.H., 15 K.A. 2d 415, 418, 809 P.2d 1 (1991).

38-1686 to 38-1690. Reserved.

38-1691. History: L. 1990, ch. 150, § 7; L. 1996, ch. 229, § 95; L. 1997, ch. 156, § 75; L. 1998, ch. 187, § 10; L. 2000, ch. 150, § 30; Repealed, L. 2006, ch. 169 § 140; Jan. 1, 2007.

Attorney General's Opinions:

Detention of juvenile offenders in jail; prohibition; expense of care and custody. 92-145.

Detention of juvenile for acts constituting felony or misdemeanor if committed by an adult. 92-147.

Detention of juveniles in jail. 93-86.

Placement or detainment of juvenile in jail; detention of juvenile in the absence of a complaint. 95-50.

County contracts with out-of-state public agency for housing misdemeanants and juvenile offenders; conditions. 97-50.

38-1692. History: L. 1993, ch. 242, § 1; L. 1995, ch. 251, § 32; L. 1996, ch. 215, § 6; L. 1997, ch. 156, § 76; L. 2001, ch. 102, § 4; Repealed, L. 2006, ch. 169 § 140; Jan. 1, 2007.

Revisor's Note:

Section was also amended by L. 1996, ch. 229, § 96, but that version was repealed by L. 1997, ch. 156, § 115.

Cross References to Related Sections:

Testing in criminal cases, see 22-2913.

38-1693 to 38-16,110. Reserved.

38-16,111. History: L. 1990, ch. 149, § 10; L. 1996, ch. 229, § 97; L. 1997, ch. 156, § 77; L. 1997, ch. 156, § 78; L. 1998, ch. 187, § 11, Repealed, L. 2006, ch. 169 § 140; Jan. 1, 2007.

Attorney General's Opinion:

County contracts with out-of-state public agency for housing misdemeanants and juvenile offenders; conditions. 97-50.

CASE ANNOTATIONS

1. Sufficiency of evidence supporting determination to try juvenile as adult (38-1636) upheld. State v. Hooks, 251 K. 755, 762, 840 P.2d 483 (1992).

38-16,112. History: L. 1990, ch. 149, § 11; L. 1992, ch. 239, § 299; L. 1993, ch. 291, § 224; Repealed, L. 1996, ch. 229, § 163; July 1, 1997.

CASE ANNOTATIONS

1. Sufficiency of evidence supporting determination to try juvenile as adult (38-1636) upheld. State v. Hooks, 251 K. 755, 762, 840 P.2d 483 (1992).

38-16,113 to 38-16,115. Reserved.

38-16,116 to 38-16,118. History: L. 1992, ch. 312, § § 24 to 26; L. 1996, ch. 229, § § 98 to 100; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-16,119. History: L. 1992, ch. 312, § 27; L. 1996, ch. 229, § 101; L. 2000, ch. 171, § 13; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-16,120. History: L. 1992, ch. 312, § 28; L. 1996, ch. 229, § 102; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Law Review and Bar Journal References:

“Testing the Validity of Confessions and Waivers of the Self-Incrimination Privilege in the Juvenile Court,” Trey Meyer, 47 K.L.R. 1035 (1999).

38-16,121 to 38-16,125. Reserved.

38-16,126. History: L. 1996, ch. 229, § 8; L. 1997, ch. 156, § 79; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Attorney General's Opinion:

Juvenile offenders; application of Kansas offender registration act and the juvenile offender information system. 97-101.

38-16,127. History: L. 1996, ch. 229, § 9; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Source or prior law:

39-706.

38-16,128. History: L. 1996, ch. 229, § 16; L. 1997, ch. 156, § 80; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Source or prior law:

39-718b.

Law Review and Bar Journal References:

“Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed,” Carla J. Stovall, 47 K.L.R. 1021 (1999).

38-16,129. History: L. 1997, ch. 156, § 23; L. 1998, ch. 187, § 9; L. 1999, ch. 156, § 20; L. 2000, ch. 150, § 31; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

Cross References to Related Sections:

Departure sentences, see 38-16,132.

Law Review and Bar Journal References:

“Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed,” Carla J. Stovall, 47 K.L.R. 1021 (1999).

CASE ANNOTATIONS

1. Sentence for criminal deprivation of property is vacated but court's imposition of consecutive sentences for other offenses affirmed. In re W.H., 30 K.A.2d 326, 41 P.3d 891 (2002).

KANSAS JUVENILE JUSTICE CODE

2. Definition of “chronic offender II” as juvenile with one percent felony adjudication and two prior misdemeanor adjudications does not require misdemeanor adjudications to be separate cases. In re J.M., 273 K. 550, 44 P.3d 429 (2002).

3. State’s request for direct placement of juvenile in juvenile correctional facility denied. In re D.M. 277 K. 881, 89 P.3d 639 (2004).

(Effective 07/01/07; see HB 2599, Sec. 59)

38-16,130. Good time credits; rules and regulations of commissioner; minimum sentence.

On and after July 1, 1999:

(a) For purposes of determining release of a juvenile offender for an offense committed on or after July 1, 1999, a system shall be developed whereby good behavior by juvenile offenders is the expected norm and negative behavior will be punished.

(b) The commissioner of juvenile justice is hereby authorized to adopt rules and regulations to carry out the provisions of this section regarding good time calculations. Such rules and regulations shall provide circumstances upon which a juvenile offender may earn good time credits through participation in programs which may include, but not be limited to, education programs, work participation, treatment programs, vocational programs, activities and behavior modification. Such good time credits may also include the juvenile offender's willingness to examine and confront the past behavior patterns that resulted in the commission of the juvenile's offense.

(c) If the placement sentence established in K.S.A. 38-16,129, and amendments thereto, is used by the court, the juvenile offender shall serve no less than the minimum term authorized under the specific category of such placement sentence.

History: L. 1997, ch. 156, § 24; May 22.

38-16,131. History: L. 1997, ch. 156, § 25; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-16,132. History: L. 1999, ch. 156, § 2; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

CASE ANNOTATIONS

1. No due process violation for imposition of mandatory minimum term of confinement in juvenile case. In re T.A.L., 28 K.A.2d 396, 15 P.3d 850 (2000).

38-16,133. History: L. 2000, ch. 150, § 34; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.

38-16,134, 38-16,135. History: L. 2003, ch. 29, § § 2, 3; Repealed, L. 2006, ch. 169, § 140; Jan. 1, 2007.